DOCKETED COMPLAINT NO. 1984-1

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

I

VS

ROBERT D. LOZO, JR., D.V.M.

I

I

LICENSE NUMBER 2261

TEXAS VETERINARY MEDICAL BOARD

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 2nd day of February, A.D. 1985, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Adam's Mark Hotel in Houston, Harris County, Texas, such meeting being called for the purpose of hearing and considering the above numbered and entitled complaint, as well as for the consideration of other Board business, and the above entitled and numbered complaint having been previously scheduled for hearing and Defendant, the said ROBERT D. LOZO, JR., D.V.M., having been served with citation and the following members of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present, to-wit:

DR. DEMARIOUS K. FREY, President
of Corpus Christi, Texas

DR. EDWARD S. MURRAY, Vice President
of Spur, Texas

DR. ED B. AVERY, Secretary
of Pearsall, Texas

DR. W. L. "DUB" ANDERSON, Member
of Addison, Texas

DR. FRANK E. MANN, JR., Member
of Wharton, Texas

DR. BILLY R. TRIMMIE, Member
of San Antonio, Texas

At 9:30 a.m., the appointed hour, the President of the Board, DR. DEMARIOUS K. FREY ordered the case to proceed at which time it was ascertained that ROBERT D. LOZO, JR., D.V.M. and his legal counsel, JOHN MOGFORD, JR. were present in person; the Board then proceeded to hear the evidence presented by the State, and by JOHN MOGFORD, JR., Attorney for ROBERT D. LOZO, D.V.M., and on the same day, February 2, 1985, all of the above members of said Board being present and participating, makes the following findings, to-wit:

FINDINGS OF FACT

1. The Board finds that all statutory requisites to its jurisdiction have been met.

2. That Robert D. Lozo, Jr., D.V.M. is a licensed veterinarian in the State of Texas, holding License No. 2261.

3. That Mr. Jack Gerhardt of San Antonio, Texas is not now, nor never has been licensed to practice veterinary medicine in the State of Texas.

4. That on March 14, 1984 and on subsequent occasions Mr. Jack Gerhardt, an employee of Kenwick Veterinary Hospital, owned and operated by Robert D. Lozo, Jr., D.V.M. did inoculate, diagnose, and treat a dog named "Radar" owned by Mr. and Mrs. Thomas Hart of San Antonio, Texas.
5. That Mr. and Mrs. Thomas Hart paid money to the Kenwick Veterinary Hospital for veterinary services rendered by Jack Gerhardt.

6. That Jack Gerhardt was practicing veterinary medicine without a license at the Kenwick Veterinary Clinic owned and operated by Robert D. Lozo, Jr., D.V.M.

7. That Robert D. Lozo, Jr., D.V.M. knew or should have known that Jack Gerhardt was practicing veterinary medicine at the Kenwick Veterinary Hospital.

8. That Robert D. Lozo, Jr., D.V.M. was under severe emotional stress at the time these instances took place and that remedial action has been taken.

CONCLUSIONS OF LAW

1. Robert D. Lozo, Jr., D.V.M. violated Article 7465a, Vernon's Annotated Texas Statutes, Section 14(f).


4. The Board finds that the facts and conclusions brought out at such hearing justify and require the following orders:

ORDERS OF THE BOARD

It is hereby ORDERED that Texas Veterinary License No. 2261 heretofore issued to ROBERT D. LOZO, JR., D.V.M. by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS be and the name is HEREBY SUSPENDED for a period of five (5) years, from the date this order is entered, PROVIDED HOWEVER, that the execution of this Order of Suspension be and it is HEREBY PROBATED, upon the following terms and conditions:

1. That the said ROBERT D. LOZO, JR., D.V.M., will not engage in any dishonest or illegal practices in or connected with the practice of veterinary medicine within the State, nor violate any of the provisions of Article 7465a, of the revised Civil Statutes of Texas, or of any Statutes of Texas or any other state or of the United States or any additions or amendments thereto pertaining to veterinary medicine.

2. The said ROBERT D. LOZO, JR., D.V.M. will observe and abide by each of the Rules of Professional Conduct promulgated by the State Board of Veterinary Medical Examiners in the State of Texas for licensed veterinarians now in affect, or placed in affect, during said period of suspension or any part of said period.

3. The said ROBERT D. LOZO, JR., D.V.M. shall obtain a minimum of twenty (20) hours of continuing education annually during period of said suspension offered by recognized local and state organizations and universities.
4. That said ROBERT D. LOZO, JR., D.V.M., shall file with the Executive Secretary of the State Board of Veterinary Medical Examiners annually, an affidavit to the effect that he has fully and faithfully complied with the terms and conditions of probation herein imposed. The said affidavit shall be transmitted to the Board Office by Certified United States Mail, Return Receipt Requested. The said affidavit shall be executed so as to be received in the Board Office on or before the 1st day of January, of each consecutive calendar year for the period of said probation, the first said affidavit to be received in the Board Office on or before the 1st day of January, 1986.

5. It is further ordered, adjudged and decreed that upon full compliance with the terms and conditions herein set forth, and upon expiration of the term of probation, the license of the said ROBERT D. LOZO, JR., D.V.M. and annual renewal certificate shall be restored to its full privileges, free and clear of the conditional terms of probation herein imposed; provided however, that in the event that the said ROBERT D. LOZO, JR., D.V.M. violates or fails to comply with any of the terms or conditions of this order during said period of probation, the Board, upon receipt by it of satisfactory evidence thereof, may forthwith terminate said probation, and direct that the Order of Suspension herein may become effective immediately.

MADE the __ day of February, 1985, and entered the __ day of February, 1985.

[Signature]

BOARD OF DIRECTORS

Board President
COMPLAINT NO. 1984-1

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

ROBERT D. LOZO, JR., D.V.M.

COMPLAINT

BEFORE ME, the undersigned authority, on this day personally appeared ERNIE M. CARROLL, hereafter called AFFIANT, who, after having been duly sworn by me on his OATH, did depose and say:

"I, ERNIE M. CARROLL, of Austin, Travis County, Texas, an employee of the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS, did in the course of such employment make certain investigations into the professional conduct and acts of one ROBERT D. LOZO, JR., D.V.M., of San Antonio, Bexar County, Texas, a practicing veterinarian in the State of Texas and holder of Texas Veterinary License Number 2261 and 1984 Renewal Certificate Number 1314, previously issued by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS, which is duly authorized to grant and issue such license.

As an employee of the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS, I, ERNIE M. CARROLL, do hereby present to the said Executive Secretary of the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS the following complaint against the said ROBERT D. LOZO, JR., D.V.M., hereinafter called RESPONDENT.

I.

On or about March 14, 1984, MR. THOMAS M. HART of San Antonio, Texas took his dog "Radar" to the KENWICK VETERINARY HOSPITAL, owned and operated by DR. ROBERT D. LOZO, JR. for a veterinary appointment concerning immunizations and a breathing problem observed in "Radar". The receptionist told MR. HART "The doctor will see you now" and showed him into the examination room. At this time he was greeted and "Radar" was examined by JACK GERHARDT who administered inoculations, diagnosed "Radar" as suffering from tonsillitis, prescribed, and dispensed "Amoxicillin", and the KENWICK VETERINARY HOSPITAL charged MR. HART $23.50 which was paid at that time by check.

II.

JACK GERHARDT was not then, nor has he ever been, licensed to practice veterinary medicine in the State of Texas.
III.

On or about April 11, 1984 MR. HART returned to the KENWICK VETERINARY HOSPITAL to have "Radar" examined for an "itchy condition around the tail". JACK GERHARDT examined "Radar" and said that the condition was a "hot spot", again prescribing and dispensing "Amoxicillin" and a sedative. MR. HART paid the receptionist at the KENWICK VETERINARY HOSPITAL for the veterinary services at that time.

IV.

On or about April 16, 1984 MR. HART returned to the KENWICK VETERINARY HOSPITAL with "Radar" and stated there was no improvement in the skin condition and large pustules or sores had developed on "Radar's" lower abdomen. MR. GERHARDT again diagnosed the condition and prescribed and dispensed "Ampicillin" and administered a steroid shot. MR. HART paid the receptionist at the KENWICK VETERINARY HOSPITAL the sum of $41.30 on that occasion.

V.

On or about April 27, 1984 MR. HART returned to the KENWICK VETERINARY HOSPITAL because there was no improvement in "Radar's" condition. He again was seen by JACK GERHARDT who dispensed more topical ointment and gave instructions to "pop the pustules each day and wash the skin with hydrogen peroxide". MR. HART paid $14.15 on that occasion.

VI.

On May 2, 1984 MR. HART returned to the KENWICK VETERINARY HOSPITAL because "Radar's" condition had not improved and was again seen by MR. JACK GERHARDT who instructed MR. HART to continue the same medication. MR. HART paid the KENWICK VETERINARY HOSPITAL $19.60 on that occasion.

At no time did MR. or MRS. HART see any person but JACK GERHARDT for treatment of their dog "Radar" at KENWICK VETERINARY HOSPITAL and at no time mentioned above did MR. HART or MRS. HART see JACK GERHARDT confer with ROBERT D. LOZO, JR., D.V.M., owner of the KENWICK VETERINARY HOSPITAL.

VII.

It is the opinion of AFFIANT, ERNIE M. CARROLL, that the RESPONDENT, ROBERT D. LOZO, JR., D.V.M., because of the conduct and acts as set out above is guilty of violating the Veterinary Licensing Act, Article 7465a, Vernon's Annotated Texas Statutes as they relate to the practice of veterinary medicine in the following manner:
1. Article 7465a, V.A.T.S., Section 2(b) deems any person shall be in the "practice of veterinary medicine" who represents himself as engaged in the practice of veterinary medicine; or uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, or any person who performs a surgical or dental operation or who diagnoses, treats, immunizes or prescribes any drug, medicine, application of any veterinary appliance for any physical ailment, injury or deformity or condition of domestic animals for compensation."

2. Article 7465a, V.A.T.S., Section 14(f) prohibits veterinarians from "permitting or allowing another to use his license or certificate to practice veterinary medicine in this State, for the purpose of treating or offering to treat, sick, injured or afflicted animals."

VIII.

It is the opinion of AFFIANT, ERNIE M. CARROLL that RESPONDENT, ROBERT D. LOZO, JR., D.V.M. violated the Rules of Professional conduct of the veterinary profession duly promulgated by the Board of Veterinary Medical Examiners authorized by Article 7465a, V.A.T.S., Section 13(a) which has been in full effect at all times mentioned herein.

1. Rule 14, Rules of Professional Conduct of the veterinary profession states "A licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person, or illegal or unethical act on the part of any veterinarian.

2. Rule 15, Rules of Professional Conduct of the veterinary profession, further qualifies direct supervision of a laymen as "A licensed veterinarian shall not allow an unlicensed person to issue certificates with the veterinarian's signature affixed thereto, nor shall be permit an unlicensed person to inoculate or treat an animal unless the issuance of the certificate and the inoculation or treatment are done under the direct supervision of a licensed veterinarian; provided however, an unlicensed individual shall not perform the following health care services: surgery; diagnosis and prognosis of animal diseases; prescription of drugs, medicine, and appliance for domestic animals."

The foregoing complaint is submitted to the Executive Secretary of the Board of Veterinary Medical Examiners of the State of Texas on this 21st day of September, 1984.

The AFFIANT further sayeth not.

ERNIE M. CARROLL, AFFIANT
SUBSCRIBED AND SWORN TO BEFORE ME, by the said ERNIE M. CARROLL, on this the 25th day of September, 1984.

[Signature]

JUDY C. SMITH, Notary Public In and for Texas, My Commission Expires September 13, 1985

The foregoing complaint is filed and docketed with the Texas Board of Veterinary Medical Examiners and styled TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS vs. ROBERT D. LOZO, JR., D.V.M. under Docket Number 1984-1 on the the 25th day of September, 1984.

[Signature]

ROGER D. SHIPMAN, EXECUTIVE SECRETARY